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*Executive Director**Southern District of New York*
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March 8, 2023

BY ECFHonorable Valerie E. Caproni
United States District Judge
Southern District of New York
New York, New York 10007**Re: United States v. Felix Gomez
22 Cr. 176 (VEC)**

Dear Judge Caproni:

I am the attorney for Felix Gomez, the defendant in the above-captioned case, and write to request that the Court order the United States Marshalls to produce Mr. Gomez to the United States Post Office, located at 90 Church Street, New York, NY, on March 15, 2023 at 12:15pm so he can apply for a United States passport.

Mr. Gomez needs to apply for a passport to establish that he is, in fact, a United States citizen and that the Presentence Report ("PSR") is wrong in stating that he is a legal permanent resident. *See* PSR at p. 2. Designation as a noncitizen by the Bureau of Prisons based on the inaccurate PSR would adversely affect Mr. Gomez' eligibility for BOP programs because he would likely be sent to a so-called Criminal Alien Requirement ("CAR") facility reserved for inmates deemed deportable.¹ Inmates at these facilities lack access to BOP rehabilitative and recreational programming. He might also improperly be subject to an ICE detainer without valid proof that he legally derived citizenship through his father's naturalization.

Isaac Wheeler, the immigration specialist in our office, has prepared a passport application with all necessary supporting documentation. Additionally, I have personally secured Mr. Gomez an appointment at the Post Office for March 15, 2023 at 12:15pm for Mr. Gomez to submit his passport application. *See* Passport Application Appointment Confirmation, attached as Exhibit A. State Department regulations require that anyone applying for the first time for a passport must do so in person before a designated passport acceptance agent and must

¹ *See* http://www.geogroup.com/CAR_Background_January_2021.pdf.

personally verify the application by oath or affirmation before that agent. 22 C.F.R. 51.21(a). The closest designated passport acceptance agency with appointments available in the near future is the Post Office at 90 Church Street. In addition to the Marshall's escort, a member of our office will also be there at the Post Office to assist him in submitting his passport application. Thereafter, Mr. Gomez will return to the MDC Brooklyn where he is currently housed.

AUSA Edward Robinson informed me that that prosecution does not object to this request. Given the significance of establishing Mr. Gomez's citizenship prior to sentencing and the current inaccuracies reflected in the PSR, the defense requests that the court grant this request to allow Mr. Gomez the opportunity to obtain his United States passport in advance of sentencing to ensure there is no doubt that Mr. Gomez is a United States citizen.

I thank you for your consideration of this request.

Respectfully Submitted,

/s/ Marisa K. Cabrera
Marisa K. Cabrera, Esq.
Assistant Federal Defender
Tel.: (917) 890-7612

cc: AUSA Edward Robinson (by ECF)

Application DENIED without prejudice. Assistant U.S. Attorney Edward Robinson must consult with the U.S. Marshals to determine if they have any objections to Mr. Gomez's request. Any renewed request must specify whether the U.S. Marshals object.

SO ORDERED.

 03/08/2023

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE